

### **REMARKS**

In response to the outstanding Office Action, Applicant respectfully requests reconsideration based on the following remarks. Claims 1-30 are pending.

Applicant respectfully submits that the claims presented are in condition for allowance. Claims 1, 21, 22, and 26 have been amended. Support for the amendment is found at least in paragraph [0021]. No new matter has been added by this Amendment.

Applicant would like to first thank Examiner Marisol Figueroa for taking time to discuss the case on October 29, 2009. The Examiner and Applicant discussed proposed amendments, and the Examiner indicated that further search is necessary.

#### **A. Claim Rejections - 35 U.S.C. §102**

Claim 26 stands rejected under 35 USC §102 as being anticipated by Weller (U.S. Patent 6,266,399).

#### **B. Claim Rejections Under 35 U.S.C. § 103**

I. Claims 1-4, 8-11, 15-18, 21, 22, 24 and 25 stand rejected under 35 USC § 103(a) as unpatentable over Peters et al. (U.S. Publication 2003/0003926 A1) in views of Marutiak (U.S. Patent 5,568,546), Irvin (U.S. Patent 6,418,211), Broussard et al. (U.S. Publication 2003/0210771), and Weller (6,266,399).

II. Claims 5, 6, and 12 stand rejected under 35 USC § 103(a) as unpatentable over Peters et al. (U.S. Publication 2003/0003926 A1) in views of Irvin (U.S. Patent 6,418,211), Marutiak (U.S. Patent 5,568,546), Broussard et al. (U.S. Publication 2003/0210771), Weller (U.S. 6,266,399) and Rutledge et al. (U.S. Publication 2002/0142756 A1).

III. Claims 13, 14, 19, 20, and 23 stand rejected under 35 USC § 103(a) as unpatentable over Peters et al., (U.S. Publication 2003/0003926) in views of Irvin (U.S. Patent 6,418,211), Marutiak (U.S. Patent 5,568,546) Broussard et al., (U.S. Publication 2003/0210771), Weller (U.S. Patent 6,266,399) and Bremer (U.S. Patent 6,018,671).

IV. Claims 27-29 stand rejected under 35 USC § 103(a) as unpatentable over Peters et al., (U.S. Publication 2003/0003926) in views of Irvin (U.S. Patent 6,418,211), Marutiak (U.S.

Patent 5,568,546), Broussard et al., (U.S. Publication 2003/0210771), Weller (U.S. Patent 6,266,399) and Brown et al., (U.S. Patent 7,010,288 B2).

V. Claim 30 stands rejected under 35 USC § 103(a) as unpatentable over Weller (U.S. Patent 6,266,399) in view of Brown et al., (U.S. Patent 7,010,288 B2).

VI. Claim 7 stands rejected under 35 USC § 103(a) as unpatentable over Peters et al., (U.S. Publication 2003/0003926) in views of Irvin, (U.S. Patent 6,418,211), Marutiak (U.S. Patent 5,568,546), Broussard et al., (U.S. Publication 2003/0210771) and Roderique (U.S. Patent 6,941,131).

### C. Patentability Arguments

Applicant respectfully traverses the above § 102 and § 103 rejections as set forth below.

Claim 1 recites “responsive to a determination that a manual answering mode applies to the incoming call: receiving a user-selected announcement action selected by said user from a list of announcement actions...**wherein the list of announcement actions is sorted based on frequency of use of the announcement actions, and wherein the user specifies that the list be sorted based on frequency of use of the announcement actions**”.

The combined teachings of Peters, Marutiak, Irvin, Broussard, Weller, Rutledge, Bremer, Brown, and Roderique fail to teach or suggest the above features of claim 1.

With regard to the features of claim 1, the Office Action indicates “Peters does not particularly disclose wherein the list is sorted based on frequency of use. However, Marutiak teaches the features of sorting a list based on frequency of use (Abstract, lines 1-12; col. 1, lines 40-55; a telephone terminal maintain a list of dialed telephone numbers and the list is sorted such that the most frequently used telephone numbers will be displayed at the top). Therefore, it would have been obvious to a person having ordinary skill in the art at the time of the invention, to modify Peters to include the features of sorting the list of messages based on frequency of use, as suggested by Marutiak, since such a modification would facilitate the selection of a message from a list given that the most frequently used messages are displayed on top. [emphasis added]” Applicant respectfully disagrees.

Marutiak abstract lines 1-12 states: “A method and apparatus for automatically and dynamically determining a list of frequently called telephone numbers for abbreviated dialing or

speed dialing. The method and apparatus maintain a list of each telephone number dialed, either manually or by abbreviated dialing, over a period of time. This list is periodically updated to remove infrequently used telephone numbers. The list is also sorted such that the most frequently used telephone numbers will be displayed as a top set or page thereof. The apparatus includes a telephone set which has multiple display areas where one set or page of telephone numbers available for abbreviated dialing is displayed.”

Marutiak col. 1, lines 40-55 state: “determining and programming an abbreviated dialing list of commonly dialed numbers. The method stores each dialed number that is dialed by either by an abbreviated dialing action or by manually entering each digit until a limit of storage is attained. Thus a list of DNs that are actually used is stored. A count of the number of uses of each DN on the list is associated with each DN, respectively, and stored. Also, a date of the last usage of each DN is associated with each DN and stored. This information is sorted to provide a list of DNs with the most used DN assigned to the first ranking on the list and the remainder of the DNs following in descending order of use. If there are ties for a ranking on the list, the DN that was used most recently is assigned the higher ranking. The top most rankings of this dynamically updated list are displayed at the user’s telephone station whenever the handset goes off-hook.”

The Office Action indicates that Peters paragraph [0033] teaches a list of messages and paragraph [0033] of Peters states: “The prerecorded message may say, for instance, ‘Please wait a moment while I find a convenient place to talk.’ The prerecorded message may be a recording made by the user or may be created using a voice generating engine well known in the art to create the message. Several messages may be available on the phone 300 and the user may select a particular message based on the circumstances or the phone 300 may select a message based, for example, on the time of day or the identity of the caller. [emphasis added]”

Now that the text from the references has been provided, Applicant submits that the combination of Peters and Marutiak (and the other references) does not render obvious “wherein the list of announcement actions is sorted based on frequency of use of the announcement actions, and wherein the user specifies that the list be sorted based on frequency of use of the announcement actions” as recited in claim 1.

That is, it would not be obvious to one skilled in the art to take “a list of frequently called telephone numbers for abbreviated dialing or speed dialing...The list is also sorted such that the most frequently used telephone numbers will be displayed as a top set or page thereof” in Marutiak to modify the “The prerecorded message...made by the user...Several messages may be available on the phone 300 and the user may select a particular message based on the circumstances” in Peters to teach or suggest the features of claim 1.

Also, Applicant submits that one skilled in the art would not modify Peters with a sorted list of frequently called telephone numbers in Marutiak to read on “the list of announcement actions is sorted based on frequency of use of the announcement actions” as recited in claim 1. Even if, for the sake of argument, that Peters and Murutiak were combined Peters would simply be modified to now include a list of frequently called telephone numbers. However, one skilled in the art would not modify the several prerecorded messages in Peters as suggested by the Office Action.

Further, the combined references fail to teach or suggest “wherein the user specifies that the list be sorted based on frequency of use of the announcement actions” as recited in claim 1.

In both Peters and Marutiak (combined with the other references), no “user specifies that the list be sorted based on frequency of use of the announcement actions” as recited in claim 1. For example, Peters does not teach or suggest that the user specifies that the prerecorded messages be sorted based of frequency even combined with Marutiak. Likewise, in Marutiak, the user does not specify that the list of frequently called telephone numbers be sorted based on frequency. Peters and Marutiak (combined with the other references) do not teach or suggest implicitly, explicitly, or inherently and do not render obvious to one skilled in the art that the “user specifies that the list be sorted based on frequency of use of the announcement actions”.

Irvin is applied by the Office Action for its teaching regarding a divert list.

Broussard is applied by the Office Action for its teaching regarding a specific greeting message template for a caller.

Rutledge is applied by the Office Action for its teaching regarding reminding a user that a recipient is on hold.

Bremer is applied by the Office Action for its teaching regarding messages that the user can select for the caller.

Brown is applied by the Office Action for its teaching regarding auto-response messages to callers.

Weller is applied by the Office Action for its teaching regarding a time/date constraint list.

Roderique is applied by the Office Action for its teaching regarding determining that a call should be answered using prerecorded messages from a list of phone numbers.

Even taken as a whole for what they would have meant to one skilled in the art, the combined teachings of Peters, Marutiak, Irvin, Broussard, Rutledge, Bremer, Brown, and Roderique fail to teach or suggest “wherein the list of announcement actions is sorted based on frequency of use of the announcement actions, and wherein the user specifies that the list be sorted based on frequency of use of the announcement actions” as recited in claim 1.

For at least the foregoing reasoning, claim 1 is patentable over the combined teachings of the combined references. Accordingly, the 35 U.S.C. 103 rejection of claim 1 and its dependent claims 2-20 and 27 should be withdrawn.

Claim 21 recites “wherein the list of announcement actions is sorted based on frequency of use of the announcement actions, and wherein the user specifies that the list be sorted based on frequency of use of the announcement actions”. The combined teachings of Peters, Marutiak, Irvin, Broussard, Rutledge, Bremer, Brown, Roderique, and Weller fail to teach or suggest the above features of claim 21. For at least the foregoing reasoning, claim 21 is patentable over the combined teachings of the combined references. Accordingly, the 35 U.S.C. 103 rejection of claim 21 and its dependent claim 28 should be withdrawn.

Claim 22 recites “wherein the list of announcement actions is sorted based on frequency of use of the announcement actions, and wherein the user specifies that the list be sorted based on frequency of use of the announcement actions”. The combined teachings of Peters, Marutiak, Irvin, Broussard, Rutledge, Bremer, Brown, Roderique, and Weller fail to teach or suggest the above features of claim 22. For at least the foregoing reasoning, claim 22 is patentable over the combined teachings of the combined references. Accordingly, the 35 U.S.C. 103 rejection of claim 22 and its dependent claims 23-25 and 29 should be withdrawn.

Claim 26 recites “wherein the list of announcement actions is sorted based on frequency of use of the announcement actions, and wherein the user specifies that the list be sorted based on frequency of use of the announcement actions”. The combined teachings of Peters, Marutiak, Irvin, Broussard, Rutledge, Bremer, Brown, Roderique, and Weller fail to teach or suggest the above features of claim 26. For at least the foregoing reasoning, claim 26 is patentable over the combined teachings of the combined references. Accordingly, the respective 35 U.S.C. 102 and 103 rejection of claim 26 and its dependent claim 30 should be withdrawn.

**D. Conclusion**

In view of the foregoing, it is respectfully submitted that claims 1-30 pending in the application are in condition for allowance. Accordingly, it is respectfully requested that this application be allowed and a Notice of Allowance issued. If the Examiner believes that a telephone conference with Applicant’s attorneys would be advantageous to the disposition of this case, the Examiner is cordially requested to telephone the undersigned.

If there are any charges with respect to this response or otherwise, please charge them to Deposit Account 06-1130 maintained by Applicant’s attorneys.

Respectfully submitted,

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